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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/008,941      | 11/08/2001  | Satoru Tachihara     | 001085.098263       | 6391             |

7590 03/31/2003  
PITNEY, HARDIN, KIPP & SZUCH LLP  
711 Third Avenue  
New York, NY 10017

EXAMINER

FINEMAN, LEE A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2872

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/008,941

Applicant(s)

TACHIHARA ET AL.

Examiner

Lee Fineman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/584943.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

This Office Action is in response to the Response filed 10 February 2003 in paper number 5. Claims 13-14 are pending.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitajima et al., U.S. Patent No. 5,015,081 in view of Mochizuki et al., U.S. Patent No. 5,825,532 and Muchel, U.S. Patent No. 4,525,042.

Kitajima et al. discloses a stereoscopic microscope (figs. 1-3) comprising a common close-up optical system (10) that faces an object (6) and has a single optical axis (36); a pair of imaging optical systems (12, 14, 16, 18) that take object light rays passing through the different region of the close-up optical system, respectively, to form a pair of images, the optical axes of the imaging optical systems (34) being parallel to the optical axis of the close-up optical system; the imaging system comprising a pair of zoom optical systems (12) that take object light rays passing through different region of the close-up optical system, respectively, to form a pair of primary images, the optical axes of the zoom optical systems (34) being parallel to the optical axis of the close-up optical system; a pair of field stops (14) that are arranged at the positions of the primary image; a pair of relay optical systems (18) that relay the primary images to form a

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pair of secondary images. Kitajima et al. lacks an image taking device that captures the images formed on an image taking surface thereof, an inter-axis device reducing element that brings the object light rays from said relay optical systems close to each other, and wherein the close-up optical system satisfies the following condition  $f_A > 500$  where  $f_A$  is a focal length (units: mm) of the close-up optical system. Mochizuki et al. teaches an imaging system optical adaptor (fig. 2) for a stereoscopic microscope with an image taking device that captures the images formed on an image taking surface thereof (3) and an inter-axis device reducing element that brings the object light rays from said relay optical systems close to each other (209). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the microscope of Kitajima et al. to include the imaging system optical adaptor of Mochizuki et al. to be able to record the images. Muchel teaches an optical system for a stereomicroscope with variable focus lengths of 57 to 1000mm (fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the close-up optical system of Kitajima et al. to achieve a focal length of greater than 500mm as suggested by Muchel in order to accommodate a large working distance.

### ***Response to Arguments***

3. Applicant's arguments filed 10 February 2003 have been fully considered but they are not persuasive.

Applicant argues that Muchel does not disclose or suggest the close up optical system of the present invention, that being a close-up lens having a focal length of greater than 500 mm. The examiner disagrees. Claim language states a close-up optical system rather than a close-up

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lens. This language does not limit this feature to a single lens element. Accordingly, Muchel does disclose a close-up optical system for a stereomicroscope with variable focus lengths of 57 to 1000 mm (fig. 2 and column 3, lines 6 through 15). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, Muchel is seen to satisfy the limitation of a close-up optical system.

### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (703) 305-5414. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on (703) 308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.



LAF

March 25, 2003

  
**MARK A. ROBINSON**  
**PRIMARY EXAMINER**